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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,433	06/08/2001	Matteo J. Rosselli	ROS2.0002	1565

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07/25/2003

EXAMINER

GORDON, RAEANN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 07/25/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,433

Applicant(s)

ROSSELLI, MATTEO J.

Examiner

Raeann Gorden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 18-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-14,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 10-13, 16, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 9 and 10, applicant is claiming an apparatus and may not claim portions of a person's body. Regarding claims 11 and 12, applicant has not claimed the "external reference" as part of the invention. Regarding claim 13, 16, and 17, as currently written claim 13 does not claim the "indication" as part of the invention. Also, the term is not clear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 6, 8-14 and 16-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jehn (5,284,345). Regarding claim 1, figure 1 of Jehn discloses a training device comprising housing having a laser (item 1) and an affixing means (col 2, line 58). Regarding claim 2, the device includes a movable member (fig1, item 3).

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Regarding claim 3, the device includes a swivel member (col 2, lines 13-16). Regarding claims 5 and 6, Jehn discloses Velcro as the fastening means (col 58). Regarding claims 8-10, the location of the device on the golfers body is not relevant to the structure (see 112 rej above). Regarding claims 11 and 12, applicant has not claimed the "external reference" as part of the invention (see rej above). Regarding claim 13, figure 1 of Jehn discloses a training device comprising housing having a laser (item 1) and an affixing means (col 2, line 58). As understood by the Examiner, "the means for providing an active comparison with an external reference" is a laser. Regarding claims 16 and 17, applicant has not claimed the "indication" as part of the invention (see 112 rej above).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jehn in view of Cannone (4,406,040). Jehn discloses the invention as shown above but fails to disclose a clip as the fastening means. Cannone teaches a clip as the fastening means (fig 2-4). One skilled in the art would have modified the fastening means to provide a secure connection.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 5-8-03 have been fully considered but they are not persuasive. The 35 USC 112, second paragraph rejection over claims 9, 10, 13, 16, and 17 is maintained. Regarding claims 9 and 10, applicant argues the golfer's body is not claimed as part of the invention. Applicant has not defined the "location" in claim 1 as part of the invention, which is correct. However, claims 9 and 10 further define the "location" as body parts, which is not correct. Regarding claim 13, 16, and 17, as currently written claim 13 does not claim the "indication" as part of the invention. Also, the term is not clear. What is the "indication"? In regards to the prior art rejections, applicant's arguments are not persuasive and the rejections are maintained. Applicant argues the Jehn reference does not teach or suggest aligning a laser beam at an external reference such as a target. Applicant is claiming an apparatus; therefore the method of using the apparatus is not relevant to the structure. Referring to claim 1, applicant claims a "a golf laser aid device comprising" (1) "a housing having a laser" and (2) "a means for affixing the housing". The remaining claim language is irrelevant to the structure. Jehn clearly discloses a device comprising a housing with a laser and an attachment means. Contrary to applicant's arguments aligning the laser to an external

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reference such as a target is a method of use. Furthermore, applicant has not claimed the target as part of the invention.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

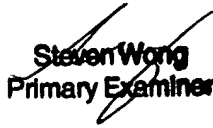
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

rg
July 24, 2003


Steven Wong
Primary Examiner